

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

ARTHUR DEWAYNE TOWNSEND, JR.,

Plaintiff,

v.

MIKE RUIZ, et al.,

Defendants.

No. 2:20-cv-1179 KJM AC P

ORDER

Plaintiff, a former state prisoner proceeding pro se and in forma pauperis, has filed this civil rights action seeking relief under 42 U.S.C. § 1983. The case has been referred to a United States Magistrate Judge for pretrial proceedings pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

Plaintiff has filed a motion to amend the complaint, which was docketed on October 28, 2021 while service of the Second Amended Complaint was in process. See ECF No. 26. The motion seeks to amend only plaintiff's request for damages. ECF No. 26. It is unaccompanied by a proposed Third Amended Complaint. Id. Local Rule 220 requires a litigant to file an amended pleading that is "complete in itself without reference to the prior or superseded pleading." See L.R. 220.

Because plaintiff has specified that he wishes only to amend the requested relief, and not the complaint's factual allegations, causes of action, or named defendants, the court will grant the

1 motion to amend notwithstanding plaintiff's failure to provide a proposed Third Amended  
2 Complaint. Plaintiff will be required to comply with Local Rule 220's requirement of a retyped  
3 (or rewritten) pleading that is complete in itself. Accordingly, plaintiff will be granted leave to  
4 file a Third Amended Complaint that combines the substance of his Second Amended Complaint,  
5 ECF No. 16, as narrowed on screening, ECF Nos. 18 & 21, with the requests for relief identified  
6 in his motion to amend. In other words, the Third Amended Complaint must be limited to  
7 plaintiff's Eighth Amendment excessive force claim against defendants Ruiz, Mendieta, Bess,  
8 Toomer and Dixon (Claim Two of the Second Amended Complaint), see ECF No. 21, and  
9 plaintiff's proposed claim for punitive damages and revised prayer for compensatory damages,  
10 ECF No. 26.<sup>1</sup> No other amendments are authorized.

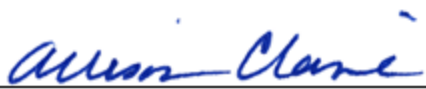
11 Notwithstanding any language to the contrary in Local Rule 220, the operative complaint  
12 is deemed amended as specified above as of the date of this order. See Local Rule 102(d)  
13 (recognizing court's authority to make orders in a specific case that are contrary to Local Rules,  
14 where appropriate in the interests of justice and case management).

15 By separate order, this case is being stayed and referred to the court's Post-Screening  
16 Alternative Dispute Resolution (ADR) Project. Plaintiff's deadline to file his Third Amended  
17 Complaint, and defendants' deadline to respond to it, will be set if necessary after completion of  
18 the ADR process.

19 Accordingly, IT IS HEREBY ORDERED that:

- 20 1. Plaintiff's motion to amend the complaint (ECF No. 26) is GRANTED;
- 21 2. The complaint is deemed amended, as specified above, as of the date of this order;
- 22 3. A schedule for the filing of a Third Amended Complaint consistent with this order,  
23 and response thereto, will issue if necessary in the event that the separately-ordered  
24 stay of proceedings for purposes of ADR is lifted.

25 DATED: December 8, 2021

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27 ALLISON CLAIRE  
UNITED STATES MAGISTRATE JUDGE

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28 <sup>1</sup> Plaintiff is informed that compensatory damages are a form of monetary damages.